UNITED
NATIONS

E

Economic and Social
Council

Distr.
LIMITED

E/CN.4/1997/L.97
11 April 1997

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS
Fifty-third session
Agenda item 10

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES

Australia*, Austria, Belgium*, Bulgaria, Canada, Cyprus*, Czech Republic, Denmark, Estonia*, Finland*, France, Germany, Greece*, Hungary*, Iceland*, Ireland, Italy, Latvia*, Liechtenstein*, Luxembourg*, Netherlands, Norway*, Poland*, Portugal*, Romania*, Slovakia*, Spain*, Sweden*, Switzerland*, and United Kingdom of Great Britain and Northern Ireland: draft resolution

1997/... Situation of human rights in Myanmar

The Commission on Human Rights,

Reaffirming, that all Member States have an obligation to promote and protect human rights and fundamental freedoms as stated in the Charter of the United Nations and as elaborated in the Universal Declaration of Human Rights, the international Covenants on human rights and other applicable human rights instruments,

Mindful that Myanmar is a party to the Convention on the Rights of the Child and the Geneva Conventions of 1949 on the protection of victims of war,

---

* In accordance with rule 69, paragraph 3, of the rules of procedure of the functional commissions of the Economic and Social Council.

Recalling previous resolutions of the General Assembly and the Commission on Human Rights on the subject, most recently General Assembly resolution 51/117 of 12 December 1996 and Commission on Human Rights resolution 1996/80 of 23 April 1996,

1. Welcomes

(a) The report by the Special Rapporteur (E/CN.4/1997/64);

(b) The report of the Secretary-General on his discussions with the Government of Myanmar (E/CN.4/1997/129);

(c) The continuing cooperation by the Government of Myanmar with the Office of the United Nations High Commissioner for Refugees for the voluntary repatriation and reintegration of returnees from Bangladesh;

(d) The scheduled visit of a special envoy of the Secretary-General to Myanmar from 7 to 10 May 1997, in the discharge of the good offices functions of the Secretary-General, for discussions with the Government and other political leaders of Myanmar as he may consider appropriate, in order to assist in the implementation of General Assembly resolution 51/117 and of the present resolution;

2. Expresses its deep concern

(a) At the continuing violations of human rights in Myanmar, as reported by the Special Rapporteur, including extrajudicial, summary or arbitrary executions, death in custody, torture, arbitrary and politically motivated arrest and detention, absence of due process of law, including trial of detainees in secrecy without proper legal representation, severe restrictions on freedoms of opinion, expression, movement, assembly and association, forced relocation, forced labour by children as well as adults, including portering for the military, abuse of women and children by government agents and oppression of ethnic and religious minorities;

(b) At the absence of significant steps towards the establishment of democratic government after the democratic elections of 1990, while noting that according to the Special Rapporteur, the absence of respect for the rights pertaining to democratic governance is at the root of all the major violations of human rights in Myanmar;

(c) That the Government of Myanmar has not yet agreed to a visit by the Special Rapporteur;

(d) That most of the representatives democratically elected in 1990 have been excluded from participating in the meetings of the National

Convention, that severe restrictions have been imposed on delegates, including members of the National League for Democracy, who have withdrawn and subsequently were excluded, at the end of 1995, from the sessions of the Convention and who were unable to meet or distribute their literature, and that one of the objectives of the Convention is to maintain the participation of the armed forces (Tatmadaw) in a leading role in the future political life of the State, and concludes that the National Convention does not appear to constitute the necessary steps towards the restoration of democracy;

(e) At the restrictions placed upon Daw Aung San Suu Kyi and other political leaders, at harassment, detention and forced resignations of elected representatives, at the recent attack against Daw Aung San Suu Kyi and other members of the National League for Democracy and at the mass arbitrary arrest of and the harsh sentences imposed on members of the National League for Democracy and other supporters of democratic groups in Myanmar, including persons peacefully exercising their right to freedom of expression during the recent student demonstrations;

(f) At the forced relocation and other violations of the rights of persons belonging to minorities, resulting in a flow of refugees to neighbouring countries, and at the recent attacks on members of the Karen ethnic group, resulting in death, destruction and displacement;

(g) At violations of the rights of children in contravention of the Convention on the Rights of the Child, in particular by the lack of conformity of the existing legal framework with this Convention, by systematic recruitment of children into forced labour, and by discrimination against children belonging to ethnic and religious minority groups;

3. Calls upon the Government of Myanmar

(a) To guarantee an end to violations of the right to life and integrity of the human being, to ensure full respect for human rights and fundamental freedoms, including freedom of thought, opinion, expression, association and assembly, the right to a fair trial by an independent and impartial judiciary and the protection of the rights of persons belonging to ethnic and religious minorities, and to urgently improve conditions of detention;

(b) To take urgent and meaningful measures to ensure the establishment of democracy in accordance with the will of the people as expressed in the democratic elections held in 1990 and, to this end, to engage at the earliest

possible date in a substantive political dialogue with the leaders of political parties returned at the elections of 1990, including Daw Aung San Suu Kyi, and with leaders of ethnic groups, as the best means of promoting national reconciliation and restoration of democracy, and to ensure that political parties and non-governmental organizations can function freely;

(c) To cooperate fully with the relevant mechanisms of the Commission, in particular the Special Rapporteur, and to ensure his access to Myanmar, without preconditions, in order to allow him fully to discharge his mandate, and to cooperate with the Secretary-General or his representatives, including through access to any person deemed appropriate by the Secretary-General or the Special Rapporteur;

(d) To ensure the safety of all political leaders, including Daw Aung San Suu Kyi, and to release immediately and unconditionally detained political leaders and all political prisoners, to ensure their physical integrity and to permit them to participate in a meaningful process of national reconciliation;

(e) To consider becoming a party to the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, as well as to other human rights instruments;

(f) And all other parties to the hostilities in Myanmar to respect fully their obligations under international humanitarian law, including article 3 common to the Geneva Conventions of 12 August 1949, to halt the use of weapons against the civilian population, to protect all civilians, including persons belonging to ethnic or religious minorities, from violations of humanitarian law, and to avail themselves of services as may be offered by impartial humanitarian bodies;

(g) To fulfil its obligations as a State party to the Forced Labour Convention, 1930 (No. 29) and to the Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87) of the International Labour Organization, and to cooperate more closely with the International Labour

Organization, in particular with the Commission of Inquiry appointed in accordance with article 26 of the Constitution of the International Labour Organization;

(h) To create the necessary conditions to remove the causes of displacement and of refugee flows to neighbouring countries and to create conditions conducive to their voluntary return and their full reintegration, in safety and dignity, in close cooperation with the Office of the United Nations High Commissioner for Refugees;

(i) To fulfil its obligation to end impunity of perpetrators of human rights violations, including members of the military, and to investigate and prosecute alleged violations committed by government agents in all circumstances;

(j) To investigate the circumstances which led to the death in June 1996 of Mr. James Leander Nichols while detained by the Government of Myanmar, and to prosecute any person who could be held responsible;

4. Decides

(a) To extend the mandate of the Special Rapporteur, as contained in Commission resolution 1992/58 of 3 March 1992, for a further year, and requests the Special Rapporteur to submit an interim report to the General Assembly at its fifty-second session on human rights in Myanmar and to report to the Commission at its fifty-fourth session, and to keep a gender perspective in mind when seeking and analysing information;

(b) To request the Secretary-General to continue to give all necessary assistance to the Special Rapporteur to enable him to discharge his mandate fully;

(c) To request the Secretary-General to continue his discussions with the Government of Myanmar and anyone in Myanmar he may consider appropriate in order to assist in the implementation of General Assembly resolution 51/117 and of the present resolution;

(d) To continue the examination of the situation of human rights in Myanmar during its fifty-fourth session under the agenda item entitled "Question of the violation of human rights and fundamental freedoms in any part of the world".